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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/617,360   | 07/11/2003  | Noah Dan             | 07980001AA          | 1512             |
| 30743 7590 09/30/2008<br>WHITHAM, CURTIS & CHRISTOFFERSON & COOK, P.C.<br>11491 SUNSET HILLS ROAD<br>SUITE 340<br>RESTON, VA 20190 |             |                      |                     |                  |
| EXAMINER   |             |                      |                     |                  |
| WOOD, WILLIAM H  |             |                      |                     |                  |
| ART UNIT   |             | PAPER NUMBER         |                     |                  |
| 2193   |             |                      |                     |                  |
| MAIL DATE  |             | DELIVERY MODE        |                     |                  |
| 09/30/2008   |             | PAPER                |                     |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/617,360

**Applicant(s)**

DAN ET AL.

**Examiner**

William H. Wood

**Art Unit**

2193

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 May 2008.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 and 14-20 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-12 and 14-20 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

Claims 1-12 and 14-20 are pending and have been examined.

#### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-5, 11-12 and 14-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims are directed toward software *per se* as they do not include any hardware.

Claims 6-10 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims are directed toward a "method" or "process" which is not tied to another statutory class. Appropriate correction may include inserting "computer executed" before the word "method" in the claims.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-4, 6-9, 11-12, 14-17 and 19-20 are rejected under 35 U.S.C. 102(e) as being anticipated by **Cable** (US 2003/0187946 A1).

Claim 1

**Cable** discloses a system for developing and maintaining a computer application in a specified enterprise environment, comprising:

a plurality of service components constructed in an application language for adaptation to an enterprise area, said enterprise area including said specified enterprise environment (*paragraphs 0005, "integrated platform specialized for creating web applications", "Enterprise JavaBeans (EJB)"; paragraph 0006, "application services"; paragraph 0082, "Java 2 Enterprise Edition (J2EE) application"*), wherein said service components are adapted for scaling and integration of said application within said specified enterprise environment as said application grows in size and complexity to meet expanding business requirements being supported by said computer application (*paragraphs 0005, "integrated platform specialized for creating web applications", "Enterprise JavaBeans (EJB)"; paragraphs*

0033-0034, "increased scalability", "greater scalability"; paragraph 0004, "business logic");

an incomplete computer application designed to be completed after a platform of said service components has been prepared in the specified enterprise environment, said service components being reusable in another enterprise environment in a vertical enterprise area containing the specified enterprise environment, said reusable service components being built and deployed on an application server within said specified enterprise environment to facilitate completion and scaling of said incomplete application (*paragraph 0004, "interacting with and integrating various enterprise-wide resources, such as web servers, databases, and backend or legacy systems"; paragraph 0005, "provide various application services for tasks that web applications and other networked applications commonly need to perform", web and network applications found throughout the enterprise are incomplete without services, enterprise-wide includes all relationships including the vertical*); and

a framework for completing said incomplete application using said reusable service components and said language, responsive to said expanding business requirements (*paragraphs 0033-0034, "increased scalability", "greater scalability"; paragraph 0004, "business logic"; paragraph 0082, "Java 2 Enterprise Edition (J2EE) application"*),

wherein said computer application is maintained responsive to said expanding business requirements by reusing said framework to complete said

incomplete application using said reusable service components and said language, after said reusable service components have been scaled to accommodate said expanding business requirements (paragraphs 0033-0034, “increased scalability”, “greater scalability”; paragraph 0004, “business logic”; paragraph 0082, “Java 2 Enterprise Edition (J2EE) application”, applications are complete when they have their respective services).

Claim 2

**Cable** discloses a system as in claim 1, wherein said application language is Java (paragraph 0082, Java application components).

Claim 3

**Cable** discloses a system as in claim 2, wherein at least one of said reusable service components is a session bean (paragraphs 0005, 0014, 0082).

Claim 4

**Cable** discloses a system as in claim 3, wherein said framework is used to integrate and maintain a legacy application in said specified enterprise environment (paragraph 0004, “legacy systems”).

Claim 11

**Cable** discloses a system as in claim 1, further comprising a vertical application pre-configuration adapted from said reusable service components to said enterprise area, wherein said vertical application pre-configuration is used in said framework to complete and maintain said incomplete application (*paragraph 0004, "interacting with and integrating various enterprise-wide resources, such as web servers, databases, and backend or legacy systems"; paragraph 0005, "provide various application services for tasks that web applications and other networked applications commonly need to perform", web and network applications found throughout the enterprise are incomplete without services, enterprise-wide includes all relationships including the vertical; paragraphs 0033-0034, "increased scalability", "greater scalability"; paragraph 0082, "Java 2 Enterprise Edition (J2EE) application", pre-configured to the components/services deployed throughout the enterprise).*

Claims 6-9, 11-12, 14-17 and 19-20

The limitations of claims 6-9, 11-12, 14-17 and 19-20 correspond to the limitations of claims 1-4 and 11 and as such are rejected in a corresponding manner.

**Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 10 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Cable** (US 2003/0187946 A1) in view of **Monson-Haefel** "Enterprise JavaBeans".

Claim 5

**Cable** did not explicitly state a system as in claim 11, wherein said reusable 2 service components are shrink-wrapped in said vertical pre-configuration. **Monson-Haefel** demonstrated that it was known at the time of invention to "shrink-wrap" components for deployment (section 4.3.7, "we can shrink-wrap the TravelAgent been so that it's ready for deployment"). **Cable** demonstrated enterprise-wide areas for services/components, thus including the vertical relationship of areas (paragraph 0004). It would have been obvious to one of ordinary skill in the art at the time of invention to implement the enterprise-wide reusable components and services of **Archer** with shrink-wrapping as found in **Monson-Haefel's** teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to provide for an easy deployment.

Claims 10 and 18

The limitations of claims 10 and 18 correspond to the limitations of claim 5 and as such are rejected in a corresponding manner.



### ***Response to Arguments***

Applicant's arguments with respect to claims 1-12 and 14-20 have been considered but are moot in view of the new ground(s) of rejection.

This is a non-final rejection.

### ***Correspondence Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Wood whose telephone number is (571)-272-3736. The examiner can normally be reached 10:00am - 4:00pm Tuesday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lewis A. Bullock Jr. can be reached on (571)-272-3759. The fax phone numbers for the organization where this application or proceeding is assigned are (571)273-8300 for regular communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR systems, see <http://pair-direct.uspto.gov>. For questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.

/William H. Wood/  
William H. Wood  
Primary Examiner, Art Unit 2193  
October 1, 2008